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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,393	03/29/2004	Masatoshi Kawauchimaru	D-1575	2716

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EXAMINER

WEBB, TIFFANY LOUISE

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/811,393	Applicant(s) KAWAUCHIMARU ET AL.	
	Examiner Tiffany L. Webb	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/26/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/26/05, 3/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 3-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species I-II, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/26/2006.
2. Applicant's election without traverse of Species III in the reply filed on 4/26/2006 is acknowledged.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “bellows” in claims 9 and 10 is used by the claim to mean “pleats”, while the accepted meaning is “a device consisting of or containing a bag-like or box-like part with folds in it, which is squeezed to create a current of air, used eg. to fan a fire.” The term is indefinite because the specification does not clearly redefine the term.

The examiner suggests deleting or replacing the term “bellows.”

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 7, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Albright et al. (US 5,492,367). Regarding claim 1, Albright et al. discloses having a leg protection device for protecting a leg of an occupant in a vehicle, including: a casing

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(28), an airbag disposed in the casing in a folded state to be inflated in front of the leg of the occupant (see Figure 15), said airbag having a front portion facing the occupant (12) and a rear portion (14) opposite to the front portion in an inflated state, said airbag having a folded portion (see Figure 7) folded between the front portion and the rear portion at a perimeter thereof, and gas generating (24) means attached to the airbag for inflating the airbag. Regarding claim 7, Albright et al. discloses an airbag including a rolled portion (40) rolled along a horizontal direction relative to the occupant in the folded state, said rolled portion having folded left and right sides (see Figure 5). Regarding claim 9, Albright et al. discloses the folded left and right side are rolled inwards (see Figure 5). Regarding claim 11, Albright et al. discloses an airbag arranged such that folded portion at the perimeter expands outwardly between the front and rear portions after the rolled portion is unrolled (see Figures 1-10).

9. Claims 1-2, 6-7, and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Abe (US 6,945,562).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Abe discloses having a leg protection device for protecting a leg of an occupant in a vehicle, including: a casing (2), an airbag disposed in the casing

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in a folded state to be inflated in front of the leg of the occupant (see 6c), said airbag having a front portion facing the occupant (1) and a rear portion (1h) opposite to the front portion in an inflated state, said airbag having a folded portion (10 or 60) folded between the front portion and the rear portion at a perimeter thereof, and gas generating (3) means attached to the airbag for inflating the airbag. Regarding claim 2, Abe discloses the folded portion is formed at an upper side of the airbag (see Figures 2b or 18b). Regarding claim 6, Abe discloses the folded portion included a pleated portion where the airbag is folded at least once inwardly (see Figure 18b). Regarding claim 7, Abe discloses an airbag including a rolled portion (see Figures 4b and 18d) rolled along a horizontal direction relative to the occupant in the folded state, said rolled portion having folded left and right sides (see Figures 5a and 18c). Regarding claims 9 and 10, Abe discloses the folded left and right side are rolled inwards (see Figures 5a or 18c). Regarding claim 11, Abe discloses an airbag arranged such that the folded portion at the perimeter expands outwardly between the front and rear portions after the rolled portion are unrolled (see Figures 6 or 19).

10. Claims 1-2, 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Dyer (US 5,496,056). Regarding claim 1, Dyer discloses having a leg protection device for protecting a leg of an occupant in a vehicle, including: a casing (30), an airbag disposed in the casing in a folded state to be inflated in front of the leg of the occupant (see Figures 18 and 19), said airbag having a front portion facing the occupant (36) and a rear portion (38) opposite to the front portion in an inflated state, said airbag having a folded portion (34) folded between the front portion and the rear portion at a perimeter

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thereof, and gas generating (24) means attached to the airbag for inflating the airbag. Regarding claim 2, Dyer discloses the folded portion is formed at an upper side of the airbag (see Figure 4). Regarding claim 6, Dyer discloses the folded portion included a pleated portion where the airbag is folded at least once inwardly (34). Regarding claim 7, Dyer discloses an airbag including a rolled portion (see Figure 10) rolled along a horizontal direction relative to the occupant in the folded state, said rolled portion having folded left and right sides (see Figure 13). Regarding claims 9 and 10, Dyer discloses the folded left and right side are rolled inwards (see Figure 9). Regarding claim 11, Dyer discloses an airbag arranged such that the folded portion at the perimeter expands outwardly between the front and rear portions after the rolled portion are unrolled (see Figure 2).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albright et al. Albright et al. is discussed above but fails to disclose the folded portion being formed at the upper side of an airbag or that the upper portion is rolled. However, regarding claim 2, Albright et al. discloses the folded portion being formed on a lower side of the airbag. Regarding claim 8, Albright et al. discloses the upper portion

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rolled along a horizontal direction and a lower portion folded over the upper portion, where the rolled portion has folded left and right sides (see Figure 14). Regarding claim 10, Albright et al. discloses the folded left and right side are rolled inwards (see Figure 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to flip the airbag around so that the lower is now the upper side in order to provide alternate protection for an occupant.

Conclusion

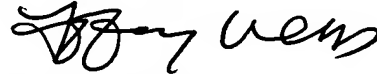
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following is a folded airbag device: Halford et al. (US 6,739,622).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany L. Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tiffany L Webb
Examiner
Art Unit 3616

tlw



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